




## CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 16, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0225

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	8.200 - Using Force, 2. Use of Force: When Prohibited.	Not Sustained - Unfounded

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded
# 2	8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Not Sustained - Unfounded

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **ADMINISTRATIVE NOTE:**

During its intake investigation, OPA flagged that WO#1—an acting police sergeant—applied a spit sock onto Community Member #1 (CM#1) in a manner inconsistent with SPD policy. That allegation was sent to WO#1's chain of command for Supervisor Action.

On October 4, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

### **SUMMARY OF INVESTIGATION:**

On May 24, 2023, the Complainant—an SPD Force Investigation Team (FIT) supervisor—sent an OPA complaint. It stated that on April 18, 2023, Named Employee #2 (NE#2) responded to an assault in-progress call involving a subject armed with a knife. Specifically, Community Member #2 (CM#2) reported that CM#1 banged on her house's walls and windows and damaged her car. CM#2 explained that Community Member #3 (CM#3)—CM#2's husband—opened the door to confront CM#1, and CM#1 entered their home and cut CM#2's wrist and finger with a knife. During the 9-1-1 call, CM#2 screamed, "I need help!" and "He wants to kill my kids!" When NE#2 arrived, CM#2 and CM#3 identified CM#1 as the offender. NE#2 described CM#1 as presenting in an "excited state." CM#1 ignored orders and demanded that the officers shoot and kill him. An officer aimed a rifle at CM#1, but CM#1's behavior persisted. NE#2 grabbed CM#1 and took him to the ground into a prone position. CM#1 was handcuffed. CM#1 yelled, "You broke my fucking hand...broke my hand on purpose." Named Employee #1 (NE#1) helped hold CM#1 to the ground during handcuffing and escorting him to a patrol car and later an AMR gurney. Medical personnel arrived, and CM#1 reiterated, "They broke my hand." CM#1 sustained a cut around his nose. CM#1 was transported to a hospital and diagnosed with a fractured right arm.



Witness Officer #2 (WO#2) wrote the incident report. WO#2 spoke with CM#2, who said she lived with CM#3 and their four children. CM#2 said CM#1 lived across the street, but they had no prior interaction with him. CM#2 said she heard banging on their house, so she looked outside and saw CM#1, armed with a three-inch bladed knife, damaging their car. CM#2 yelled for CM#3, who opened the door to confront CM#1. CM#2 said CM#1 barged inside, yelling, "I'll kill you all!" CM#2 said CM#1 held the knife over his head toward them. CM#2 said she and CM#3 pushed CM#1 outside, sustaining a small cut on her left finger. CM#2's car had a broken driver's side mirror and other exterior damage. CM#1 was also the subject of a crisis call two days prior. That call involved CM#1's parents calling the police due to him reportedly drinking and smoking but not taking prescribed bipolar and schizophrenia medications.

Witness Officer #3's (WO#3) statement indicated CM#1 "took a fighting stance" and threw objects as NE#2 initially approached. WO#3 said NE#2 performed a controlled takedown of CM#1. WO#3 said he handcuffed and controlled CM#1's legs due to his kicking.

FIT interviewed CM#1. CM#1 said he initially encountered police as he left CM#2 and CM#3's home. CM#1 remembered loudly approaching the officers. CM#1 said he threw his passport at the officers, who had guns drawn, and yelled that he was ready to die. CM#1 said an officer threw him to the ground, and he was handcuffed. CM#1 said he sustained a broken arm that required surgery. CM#1 reported feeling pain in that arm after punching CM#2 and CM#3's house walls.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegation #1**

##### ***8.200 - Using Force, 2. Use of Force: When Prohibited.***

The Complainant alleged that NE#1 used prohibited force against CM#1.

Force is prohibited "...on restrained subjects (e.g., including handcuffed or contained in a police vehicle) except in exceptional circumstances when the subject's actions must be immediately stopped to prevent injury, escape, or destruction of property. All such force shall be closely and critically reviewed." SPD Policy 8.200-POL-2.

Body-worn video (BWV) showed that CM#1 quickly and erratically approached NE#2 and other officers, who knew that CM#1 reportedly cut CM#2 and threatened to kill her and CM#3. NE#2, aiming a firearm at CM#2, yelled, "Show me your fucking hands." Instead, CM#2 reached inside a cross-body bag and threw items at the officers.

*Image of CM#1 throwing an item at the officers (from NE#2's BWV)*



NE#2 ordered CM#2 to “Put your fucking hands up.” CM#2 continued approaching, throwing items and yelling, “There’s my passport. Here [are] my lab cards...” When CM#1 closed in on NE#2, NE#2 grabbed him, put him against a patrol vehicle, and then onto the ground in the prone position. At some point, during NE#2’s attempt to control CM#1 on the ground, CM#1 sustained a bloody nose. Nevertheless, NE#2’s takedown appeared controlled and unintended to injure CM#1.



CM#1’s bloody nose



NE#2 told FIT there was a high interest in detaining CM#1 since he was reportedly armed with a knife and could divert to a school across the street.

NE#1 held CM#1 to the ground while WO#3 applied handcuffs. NE#1 also helped escort CM#1 to a patrol car and later to an AMR gurney. NE#1's use of force did not exceed *de minimus*.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #2 - Allegation #1**

**8.200 - Using Force (1) Use of Force: When Authorized**

The Complainant alleged that NE#2 used unauthorized force against CM#1.

An officer's use of force must be reasonable, necessary, and proportional. SPD Policy 8.200(1). Specifically, officers shall only use "objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective." *Id.* Reasonableness depends "on the totality of the circumstances" known to the officer when the force is applied balanced against "the rights of the subject, in light of the circumstances surrounding the event." SPD Policy 8.050. It must also consider that officers are often forced to make "split-second decisions" under tense, dynamic circumstances. *Id.* The policy lists several factors to weigh when evaluating reasonableness. *See id.* Force is necessary when "no reasonably effective alternative to the use of force appeared to exist" and "the amount of force used was reasonable to effect the lawful purpose intended." *Id.* Last, the force must be proportional to the threat posed to the officer. *Id.*

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**



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**Named Employee #2 - Allegation #2**

***8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force***

The Complainant alleged that NE#2 unjustifiably failed to exhaust de-escalation options.

“When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force.” SPD Policy 8.100-POL-1. Officers are encouraged to use team approaches and consider whether an officer successfully established rapport with the subject. *Id.* De-escalation options are guided by the “totality of the circumstances.” The policy lists several examples of de-escalation, emphasizing communication, time, distance, and shielding to minimize the need for force. *Id.*

As outlined in Named Employee #1 – Allegation #1, NE#2 had no safe and feasible opportunity to utilize further de-escalation tactics. CM#1 ignored commands and approached officers quickly and erratically after being identified as the offender who violently assaulted CM#2.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**